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United States Department of the Interior



FISH AND WILDLIFE SERVICE

ECOLOGICAL SERVICES
MONTANA FIELD OFFICE
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HELENA, MONTANA 59601
PHONE (406) 449-5225, FAX (406) 449-5339

M.24-STB
(ICC) Tongue River Railroad

November 18, 2005

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Dear Ms. Rutson:

This letter acknowledges the U.S Fish and Wildlife Service's (Service) September 26, 2005 receipt of your September 20, 2005 letter, and September 2005 Biological Assessment requesting initiation of formal section 7 consultation under the Endangered Species Act. The consultation concerns the possible effects of Tongue River Railroad Company's (TRRC) proposed rail construction and operation of the Tongue River Railroad in Rosebud, Custer, and Big Horn Counties, Montana on the bald eagle (*Haliaeetus leucocephalus*), whooping crane (*Grus americana*), the black-footed ferret (*Mustela nigripes*), the pallid sturgeon (*Scaphirhynchus albus*), and the interior least tern (*Sterna antillarum athalassos*). There is no designated critical habitat for these species.

All information required of you to initiate consultation was either included with your letter or is otherwise accessible for our consideration and reference. We have assigned log number 6MT-06-F02B to this consultation. Please refer to that number in future correspondence on this consultation.

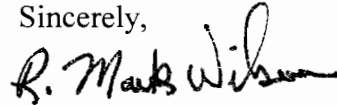
Section 7 allows the Service up to 90 calendar days to conclude formal consultation with your agency and an additional 45 days to prepare our biological opinion (unless we mutually agree to an extension). Therefore, we expect to provide you with our biological opinion no later than February 8, 2006. As requested, we will give you the opportunity to comment on the draft biological opinion prior to its finalization.

As a reminder, the Endangered Species Act requires that after initiation of formal consultation, the Federal action agency may not make any irreversible or irretrievable commitment of resources that limits future options. This practice insures agency actions do not preclude the formulation or implementation of reasonable and prudent alternatives that avoid jeopardizing the

continued existence of endangered or threatened species or destroying or modifying their critical habitats.

If you have any questions or concerns about this consultation or the consultation in general, please feel free to contact me or Lou Hanebury of our Billings Sub Office at (406) 247-7366.

Sincerely,

A handwritten signature in black ink that reads "R. Mark Wilson". The signature is fluid and cursive, with the first name "R." and last name "Wilson" clearly distinguishable.

R. Mark Wilson
Field Supervisor

cc: USFWS, Billings, MT (Attn: Lou Hanebury)
DOI, Office of the Secretary, Denver, CO (Attn: Robert Stewart)
EPA, Helena, MT. (Attn: Steve Potts)
MTFWP, Helena, MT. (Attn: Gary Bertellotti)
MTFWP, Billings, MT. (Attn: Allison Putniak)
Circle Point, San Francisco, CA (Attn: Mary Bean)